

ENTERED

March 06, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

ROGER LERMA,

Petitioner,

VS.

LORIE DAVIS,

Respondent.

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CIVIL NO. 2:16-CV-00386

ORDER

The Court is in receipt of Respondent's December 29, 2016, motion for summary judgment, Dkt. No. 8; Petitioner's April 24, 2017, response to the motion for summary judgment,¹ Dkt. No. 12; the May 22, 2017, Memorandum & Recommendation ("M&R") of the Magistrate Judge to whom this case was referred, Dkt. No. 13; and Petitioner's June 15, 2017, objection to the M&R, Dkt. No. 14.

The Court reviews objected-to portions of a Magistrate Judge's proposed findings and recommendations de novo. 28 U.S.C. § 636(b)(1). Plaintiff's objection is frivolous, conclusory, general, or contains no arguments that the M&R has not already considered. *See* Dkt. Nos. 13, 14; *Battle v. United States Parole Comm'n*, 834 F.2d 419 (5th Cir. 1987) (determining that a district court need not consider frivolous, conclusive, or general objections). After independently reviewing the record and considering the applicable law, the Court adopts the proposed M&R in its entirety. Dkt. No. 13. Thus, the Court **OVERRULES** Plaintiff's objection. Dkt. No. 14.

¹ It is unclear whether Petitioner is still in custody. *See* Texas Department of Criminal Justice, Roger Lerma, TDCJ No. 00886579, Parole Review Status, <https://offenser.tdcj.texas.gov/OffenderSearch> ("Last Parole Decision . . . Approved on 04/03/2017 . . . Approved with completion of a program prior to release."); Dkt. No. 12 at 8 (Petitioner's April 24, 2017, response to Respondent's motion for summary judgment, which states, "Once the line class was restored and the Petitioner was given back his custody level as well, the Petitioner immediately made parole, and is now waiting to leave."); Dkt. No. 14 at 10 (Petitioner's June 8, 2017, objection to the M&R, which lists Petitioner's address as "McConnell Unit.").

The Court hereby:

- **GRANTS** Respondent's motion for summary judgment, Dkt. No. 8;
- **DISMISSES WITH PREJUDICE** this action; and
- **DENIES** Petitioner a Certificate of Appealability.

The Court will order entry of final judgment separately.

SIGNED this 5th day of March, 2018.

A handwritten signature in black ink, appearing to read 'Hilda Tagle', written over a horizontal line.

Hilda Tagle
Senior United States District Judge